

Courtney Lowery (#036888)  
Sanford Law Firm, PLLC  
Kirkpatrick Plaza  
10800 Financial Centre Pkwy, Suite 510  
Little Rock, Arkansas 72211  
(501) 221-0088  
[courtney@sanfordlawfirm.com](mailto:courtney@sanfordlawfirm.com)  
Attorney for ~~Plaintiff~~ Plaintiffs

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA  
PRESCOTT DIVISION

Tony Manzo, Suzanne Adams, Brian  
Kimmerle, Judy Kinsinger, Matthew Lee,  
Seth Zimmerman, Nicole Cavasini-  
Pludowski and Nancy Thias, Individually  
and ~~on~~  
On Behalf of All Others Similarly  
Situated,

~~Plaintiff~~ Plaintiffs,

v.

Engrained Cabinetry and Countertops,  
LLC, Inspired Closets of Arizona, LLC,  
and Thomas Corkery,

Defendants.

No. 3:22-cv-8081-PCT-JJT

**ORIGINAL FIRST AMENDED AND  
SUBSTITUTED COMPLAINT—  
COLLECTIVE ACTION**

~~Plaintiff~~ Plaintiffs Tony Manzo—(~~“Plaintiff~~, Suzanne Adams, Brian Kimmerle,  
Judy Kinsinger, Matthew Lee, Seth Zimmerman, Nicole Cavasini-Pludowski and Nancy  
Thias (“Plaintiffs”)), individually and on behalf of all others similarly situated, by and  
through ~~his~~ their attorney Courtney Lowery of Sanford Law Firm, PLLC, for ~~his~~

1 ~~Original~~their First Amended and Substituted Complaint—Collective Action (“Amended  
 2 Complaint”) against Defendants Engrained Cabinetry and Countertops, LLC, Inspired  
 3 Closets of Arizona, LLC, and Thomas Corkery (collectively “Defendant” or  
 4 “Defendants”), ~~states~~state and ~~alleges~~allege as follows:

## 5 6 I. PRELIMINARY STATEMENTS

7 1. The purpose of this First Amended and substituted Complaint (“Amended  
 8 Complaint”) is to add the opt-in plaintiffs Suzanne Adams, Brian Kimmerle, Judy  
 9 Kinsinger, Matthew Lee, Seth Zimmerman, Nicole Cavasini-Pludowski and Nancy  
 10 Thias as named Plaintiffs; to add employer Inspired Closets of Arizona, LLC, as a  
 11 Defendant; as well as clarify and refine Plaintiffs’ original allegations against  
 12 Defendants and include details related to the allegations of Suzanne Adams, Brian  
 13 Kimmerle, Judy Kinsinger, Matthew Lee, Seth Zimmerman, Nicole Cavasini-Pludowski  
 14 and Nancy Thias.

15  
 16  
 17 1.2. This is a collective action brought by ~~Plaintiff~~Plaintiffs, individually and  
 18 on behalf of all others similarly situated, against Defendants for violations of the  
 19 minimum wage and overtime provisions of the Fair Labor Standards Act, 29 U.S.C. §  
 20 201, *et seq.* (the “FLSA”), and the minimum wage provisions of the Arizona Revised  
 21 Statutes, A.R.S. § 23-363.

22  
 23 2.3. ~~Plaintiff seeks~~Plaintiffs seek a declaratory judgment, monetary damages,  
 24 liquidated damages, prejudgment interest, and a reasonable attorney’s fee and costs as a  
 25  
 26

1 result of ~~Defendant's~~Defendants' policies and practice of failing to pay proper minimum  
2 wage and overtime compensation under the FLSA and the Arizona minimum wage law.

## 3 II. JURISDICTION AND VENUE

4 3.4. The United States District Court for the District of Arizona has subject  
5 matter jurisdiction over this suit under the provisions of 28 U.S.C. § 1331 because this  
6 suit raises federal questions under the FLSA.

8 4.5. This Amended Complaint also alleges Arizona state law violations, which  
9 arise out of the same set of operative facts as the federal cause of action; accordingly,  
10 this Court has supplemental jurisdiction over ~~Plaintiff's~~Plaintiffs' state law claims  
11 pursuant to 28 U.S.C. § 1367(a).

13 5.6. ~~Defendant is~~Defendants are headquartered in and ~~operates~~operate out of  
14 Prescott, Arizona. Therefore, the venue is proper within this District pursuant to 28  
15 U.S.C. § 1391.

## 17 III. THE PARTIES

18 7. Plaintiff Manzo ("Manzo") is an individual and resident of Yavapai  
19 County.

20 8. Plaintiff Adams ("Adams") is an individual and resident of Yavapai  
21 County.

22 9. Plaintiff Kimmerle ("Kimmerle") is an individual and resident of Yavapai  
23 County.

1 10. Plaintiff Kinsinger (“Kinsinger”) is an individual and resident of Yavapai  
2 County.

3 11. Plaintiff Lee (“Lee”) is an individual and resident of Yavapai County.

4 12. Plaintiff Zimmerman (“Zimmerman”) is an individual and resident of  
5 Yavapai County.

6 6-13. Plaintiff Thias (“Thias”) is an individual and resident of Maricopa County.

7 7-14. Separate Defendant Engrained Cabinetry and Countertops, LLC (“ECC”),  
8  
9 is a domestic limited liability company.

10 8-15. ECC’s registered agent for service of process is T. Marie Corkery, at 821  
11  
12 Flaming Arrow, Prescott, Arizona 86301.

13 16. Separate Defendant Inspired Closets of Arizona, LLC (“ICA”), is a  
14 domestic limited liability company.

15 17. ICA’s registered agent for service of process is T. Marie Corkery, at 821  
16 Flaming Arrow, Prescott, Arizona 86301.

17 9-18. Separate Defendant Thomas Corkery (“Corkery”) is an individual and  
18  
19 resident of Arizona.

20 10-19. Defendants ECC, in the course of their business, ~~maintain~~maintains a  
21  
22 website at <https://engrained.com/>.

23 20. ICA, in the course of their business, maintains a website at  
24 <https://inspiredclosets.com/>.

25  
26 **IV. FACTUAL ALLEGATIONS**

1 ~~11. Plaintiff repeats and realleges all previous paragraphs of this Complaint~~  
2 ~~as though fully incorporated in this section.~~

3 21. Defendant's Defendants' primary business is selling and installing  
4 cabinets, countertops, and storage.

5 22. ECC designs cabinets and countertops— for different areas of the home,  
6 including the kitchen and bathrooms.

7 ~~12.~~ 23. ICA designs cabinets and storage for different areas of the home,  
8 including closets, the pantry, and the laundry room.

9 ~~13.~~ 24. Corkery is a principal, director, officer, and/or owner of both ECC and  
10 ICA.

11 ~~14.~~ 25. Corkery took an active role in operating both ECC and ICA and  
12 in the  
13 management thereof.

14 ~~15.~~ 26. Corkery, in his role as an operating employer of both ECC and ICA, had  
15 the power to hire and fire Plaintiff Plaintiffs, often supervised Plaintiff's Plaintiffs' work  
16 and determined his their work schedule, and made decisions regarding  
17 Plaintiff's Plaintiffs' pay, or lack thereof.

18 ~~16. Corkery, at relevant times, exercised supervisory authority over Plaintiff~~  
19 ~~in relation to his work schedule, pay policy and the day to day job duties that Plaintiff's~~  
20 ~~jobs entailed.~~

21 27. Corkery implemented the same or similar pay policies at ECC and ICA.  
22  
23  
24  
25  
26

1        28. Employees of ECC and ICA performed similar work, were subject to the  
2 same or similar pay policies, and incurred damages stemming from the same or similar  
3 violations of the FLSA, as alleged below.

4        29. Corkery and ECC had a duty to pay their employees as required by the  
5 FLSA.

6        30. Corkery and ICA had a duty to pay their employees as required by the  
7 FLSA.

8        31. Kimmerle and Adams were employed by both ECC and ICA within the  
9 three years preceding the filing of this lawsuit. At all times during their employment  
10 with either ECC or ICA, they were also employed by Corkery.

11        17.32. During each of the three years preceding the filing of this Amended  
12 Complaint, ~~Defendant~~Defendants employed at least two individuals who were engaged  
13 in interstate commerce or in the production of goods for interstate commerce, or had  
14 employees handling, selling, or otherwise working on goods or materials that had been  
15 moved in or produced for commerce by any person, such as tools, materials, vehicles  
16 and fuel.

17        18.33. ~~Defendant's~~Defendants' annual gross volume of sales made or business  
18 done was not less than \$500,000.00 (exclusive of excise taxes at the retail level that are  
19 separately stated) during each of the three calendar years preceding the filing of this  
20 ~~complaint~~Amended Complaint.

1        ~~19.34.~~ At all times material herein, ~~Defendant was~~Defendants were an  
2 “employer” of ~~Plaintiff~~Plaintiffs within the meaning of the FLSA.

3        ~~20.35.~~ ~~Defendant~~ECC and Corkery employed ~~Plaintiff~~Manzo as a Designer from  
4 approximately September of 2019 until November of 2021.

5        36. Defendants employed Adams as a Sales Representative and Designer from  
6 approximately August of 2019 until March of 2020.

7        37. ECC and Corkery employed Kimmerle as a Sales Representative from  
8 approximately June of 2013 until December of 2020. ICA and Corkery employed  
9 Kimmerle as a Sales Representative from approximately December of 2020 until June  
10 of 2021.

11        38. ICA and Corkery employed Kinsinger as a Designer from approximately  
12 October of 2019 until January of 2022.

13        39. ECC and Corkery employed Lee as a Designer and Sales Representative  
14 from approximately November of 2019 until July of 2020.

15        40. ECC and Corkery have employed Zimmerman as a Designer since June  
16 of 2017.

17        41. ICA and Corkery employed Cavasini-Pludowski as a Designer and Sales  
18 Representative from approximately March 2021 until June 2022.

19        42. ECC and Corkery employed Thias as a Designer from approximately May  
20 of 2019 until December of 2019.

1        43. Regardless of the job title Defendants assigned to them, all Plaintiffs  
2 performed essentially the same job duties: designing and selling cabinetry, countertops,  
3 and storage.

4        21.44. At all times material herein, ~~Defendant~~Defendants classified  
5 ~~Plaintiff~~Plaintiffs as exempt from the overtime requirements of the FLSA.  
6

7        22.45. ~~Defendant~~Defendants paid ~~Plaintiff~~Plaintiffs solely on a commission  
8 basis.  
9

10        23.46. ~~Defendant~~Defendants also employed other commission-paid employees  
11 within the three years preceding the filing of this lawsuit (hereinafter, “Commission  
12 Employees”).

13        24.47. At all relevant times herein, ~~Defendant~~Defendants directly hired  
14 Commission Employees to work at ~~its~~their facilities, paid them wages and benefits,  
15 controlled their work schedules, duties, protocols, applications, assignments and  
16 employment conditions, and kept at least some records regarding their employment.  
17

18        25.48. 29 C.F.R. § 779.412 states that employees who are paid on a commission  
19 basis must receive a constructive hourly rate of 1.~~5~~5 times the applicable minimum  
20 wage.  
21

22        26.49. ~~Plaintiff was~~Plaintiffs were paid a commission for each cabinet~~—or,~~  
23 countertop or storage space that ~~he~~they designed and/or sold.

24        27.50. Other Commission Employees were paid in a similar manner as  
25 ~~Plaintiff.~~Plaintiffs.  
26



1 ~~28.51. Defendant~~Defendants regularly reduced or eliminated entirely  
 2 ~~Plaintiff's~~Plaintiffs' commission if ~~Plaintiff~~Plaintiffs made an error in designing a  
 3 cabinet ~~or, countertop, or storage space.~~

4 ~~29.52.~~ Upon information and belief, ~~Defendant~~Defendants also regularly reduced  
 5 or refused to pay the commissions earned by other Commission Employees.  
 6

7 ~~30.53.~~ When ~~Plaintiff~~Plaintiffs or other Commission Employees made an error  
 8 in designing or manufacturing a project, ~~Defendant~~Defendants would quantify the error  
 9 and then take that amount out of all future commissions until the amount had been paid  
 10 back. Due to this policy and practice, there were weeks or months in which  
 11 ~~Plaintiff~~Plaintiffs and other Commission Employees were paid nothing at all.  
 12

13 ~~31.54.~~ In weeks in which ~~Defendant~~Defendants reduced or failed to pay the  
 14 commission of ~~Plaintiff~~Plaintiffs and other Commission Employees, the hourly rate of  
 15 ~~Plaintiff~~Plaintiffs and other Commission Employees fell below ~~1.5x~~5 times the  
 16 applicable minimum wage.  
 17

18 ~~32.55. In weeks in which their hourly rate was less than 1.5x the applicable~~  
 19 ~~minimum wage, Plaintiff~~Plaintiffs and other Commission Employees ~~were~~are entitled  
 20 to an overtime rate of ~~1.5x~~5 times their regular rate of pay for all hours worked over 40.  
 21

22 ~~56. Defendant also deducted against Plaintiffs commissions for expenses~~  
 23 ~~incurred on Defendant's behalf.~~

24 ~~57. For example, Defendant deducted the following from Plaintiffs~~  
 25 ~~commissions: credit card transaction fees when a customer paid with a credit card; social~~  
 26

1 media marketing for the company; travel expenses for mandatory training; and other  
2 miscellaneous fees to reduce commission payments.

3 58. Plaintiffs therefore “kicked back” the amount of the deductions listed  
4 above to Defendants, creating additional minimum wage and overtime violations. See  
5 29 C.F.R. § 531.35.

7 33-59. At all relevant times herein, ~~Defendant has~~Defendants have deprived  
8 ~~Plaintiff~~Plaintiffs and other Commission Employees of proper overtime compensation  
9 for all of the hours worked over forty per week.

11 34-60. DefendantDefendants knew or showed reckless disregard for whether  
12 ~~its~~their actions violated the FLSA.

13 **V. REPRESENTATIVE ACTION ALLEGATIONS**

14 35. Plaintiff repeats and realleges all previous paragraphs of this Complaint  
15 as though fully incorporated in this section.

17 36-61. Plaintiff bringsPlaintiffs bring this claim for relief for violation of the  
18 FLSA as a collective action pursuant to Section 16(b) of the FLSA, 29 U.S.C. § 216(b),  
19 on behalf of all persons similarly situated, who were, are, or will be employed by  
20 ~~Defendant~~Defendants within the applicable statute of limitations period, who are  
21 entitled to payment of the following types of damages:

23 A. Regular wages for all hours worked and overtime premiums for all hours  
24 worked over forty hours in any week;

25 B. Liquidated damages; and  
26

1 C. Attorney's fees and costs.

2 ~~37.62. Plaintiff proposes~~Plaintiffs propose the following collective under the

3 FLSA:

4 **All commission-paid employees whose pay was**  
5 **reduced during any week within the past 3 years.**

6 ~~38.63.~~ In conformity with the requirements of FLSA Section 16(b), each Plaintiff  
7 has filed or will soon file a written Consent to Join this lawsuit.

8  
9 ~~39.64.~~ The relevant time period dates back three years from the date on which  
10 ~~Plaintiff's~~Plaintiffs' Original Complaint—Collective Action was filed herein and  
11 continues forward through the date of judgment pursuant to 29 U.S.C. § 255(a), except  
12 as set forth herein below.

13  
14 ~~40.65.~~ The members of the proposed FLSA collective are similarly situated in  
15 that they share these traits:

16 A. They were paid on a commission basis; and

17 B. ~~Defendant~~Defendants reduced their commission to such a degree that their  
18 constructive hourly rate fell below ~~1.5x~~5 times the applicable minimum wage.

19  
20 ~~41.66. Plaintiff is~~Plaintiffs are unable to state the exact number of the collective  
21 but believes that it exceeds 20 persons.

22 ~~42.67. Defendant~~Defendants can readily identify the members of the collective,  
23 who are a certain portion of the current and former employees of ~~Defendant~~Defendants.

24  
25 ~~43.68.~~ The names and physical and mailing addresses of the probable FLSA  
26 collective action plaintiffs are available from ~~Defendant~~Defendants.

1 ~~44.69.~~ The email addresses of many of the probable FLSA collective action  
 2 plaintiffs are available from ~~Defendant~~Defendants.

3 **VI. FIRST CLAIM FOR RELIEF**  
 4 **(Individual Claims for Violation of the FLSA)**

5 ~~45.—Plaintiff repeats and realleges all previous paragraphs of this Complaint~~  
 6 ~~as though fully set forth herein.~~

7 ~~46.70. Plaintiff asserts~~Plaintiffs assert this claim for damages and declaratory  
 8 relief pursuant to the FLSA, 29 U.S.C. § 201, *et seq.*  
 9

10 ~~47.71.~~ At all relevant times, ~~Defendant has~~Defendants have been, and  
 11 ~~continues~~continue to be, an enterprise engaged in commerce within the meaning of the  
 12 FLSA, 29 U.S.C. § 203.  
 13

14 ~~48.72.~~ 29 U.S.C. §§ 206 and 207 require any enterprise engaged in commerce to  
 15 pay a minimum wage for all hours worked up to 40 each week and to pay 1.~~5~~5 times  
 16 their regular wages for all hours worked over 40 each week, unless an employee meets  
 17 certain exemption requirements of 29 U.S.C. § 213 and all accompanying Department  
 18 of Labor (“DOL”) regulations.  
 19

20 ~~49.73.~~ 29 U.S.C. § 207(i) requires employers to pay employees who earn  
 21 compensation on a commission-only basis such that their regular hourly rate is more  
 22 than 1.~~5~~5 times the applicable minimum wage rate.  
 23

24 ~~50.74. Defendant~~Defendants classified ~~Plaintiff~~Plaintiffs as exempt from the  
 25 FLSA requirements~~of the FLSA~~.  
 26

1 ~~51-75. Defendant~~Defendants failed to pay ~~Plaintiff~~Plaintiffs sufficient  
2 compensation to meet the requirements of 29 U.S.C. § 207(i).

3 ~~52-76. Defendant~~Defendants knew or should have known that ~~its~~their actions  
4 violated the FLSA.

5 ~~53-77. Defendant's~~Defendants' conduct and practices, as described above, were  
6 willful.

7  
8 ~~54-78.~~ By reason of the unlawful acts alleged herein, ~~Defendant is~~Defendants are  
9 liable to ~~Plaintiff~~Plaintiffs for monetary damages, liquidated damages and costs,  
10 including reasonable attorney's fees provided by the FLSA for all violations which  
11 occurred beginning at least three years preceding the filing of ~~Plaintiff's~~Plaintiffs' initial  
12 complaint, plus periods of equitable tolling.

13  
14 ~~55-79. Defendant has~~Defendants have not acted in good faith nor with reasonable  
15 grounds to believe ~~its~~their actions and omissions were not a violation of the FLSA, and,  
16 as a result thereof, ~~Plaintiff is~~Plaintiffs are entitled to recover an award of liquidated  
17 damages in an amount equal to the amount of unpaid minimum wage and unpaid  
18 overtime premium pay described above pursuant to Section 16(b) of the FLSA, 29  
19 U.S.C. § 216(b).

20  
21  
22 ~~56-80.~~ Alternatively, should the Court find that ~~Defendant~~Defendants acted in  
23 good faith in failing to pay ~~Plaintiff~~Plaintiffs as provided by the FLSA, ~~Plaintiff~~  
24 isPlaintiffs are entitled to an award of prejudgment interest at the applicable legal rate.

25  
26 **VII. SECOND CLAIM FOR RELIEF**  
**(Collective Action Claim for Violation of the FLSA)**

~~VIII. SECOND CLAIM FOR RELIEF~~  
~~(Collective Action Claim for Violation of the FLSA)~~

~~57. Plaintiff repeats and realleges all previous paragraphs of this Complaint as though fully set forth herein.~~

~~58.81. Plaintiff asserts~~Plaintiffs assert this claim for damages and declaratory relief on behalf of all similarly situated employees pursuant to the FLSA, 29 U.S.C. § 201, *et seq.*

~~59.82. At all relevant times, Defendant has~~Defendants have been, and ~~continues~~continue to be, an enterprise engaged in commerce within the meaning of the FLSA, 29 U.S.C. § 203.

~~60.83. 29 U.S.C. §§ 206 and 207 require any enterprise engaged in commerce to pay all employees a minimum wage for all hours worked up to 40 each week and to pay 1.5x5 times their regular wages for all hours worked over 40 each week, unless an employee meets certain exemption requirements of 29 U.S.C. § 213 and all accompanying Department of Labor~~DOL regulations.

~~61.84. 29 U.S.C. § 207(i) requires employers to pay employees who earn compensation on a commission-only basis such that their regular hourly rate is more than 1.5x5 times the applicable minimum wage rate.~~

~~62.85. Defendant~~Defendants classified ~~Plaintiff~~Plaintiffs and other similarly situated employees as exempt from the overtime provisions of the FLSA.

1 ~~63.86. Defendant~~Defendants failed to pay ~~Plaintiff~~Plaintiffs and other similarly  
2 situated employees sufficient compensation to meet the requirements of 29 U.S.C §  
3 207(i).

4 ~~64.87. Defendant~~Defendants knew or should have known that ~~its~~their actions  
5 violated the FLSA.  
6

7 ~~65.88. Defendant's~~Defendants' conduct and practices, as described above, were  
8 willful.

9 ~~66.89. By reason of the unlawful acts alleged herein, Defendant is~~Defendants are  
10 liable to ~~Plaintiff~~Plaintiffs and all similarly situated employees for monetary damages,  
11 liquidated damages and costs, including reasonable attorney's fees provided by the  
12 FLSA for all violations which occurred beginning at least three years preceding the filing  
13 of Plaintiffs' initial complaint, plus periods of equitable tolling.  
14

15 ~~67.90. Defendant has~~Defendants have not acted in good faith nor with reasonable  
16 grounds to believe ~~its~~their actions and omissions were not a violation of the FLSA, and,  
17 as a result thereof, ~~Plaintiff~~Plaintiffs and similarly situated employees are entitled to  
18 recover an award of liquidated damages in an amount equal to the amount of unpaid  
19 overtime premium pay described above pursuant to Section 16(b) of the FLSA, 29  
20 U.S.C. § 216(b).  
21  
22

23 ~~68.91. Alternatively, should the Court find that Defendant~~Defendants acted in  
24 good faith in failing to pay ~~Plaintiff~~Plaintiffs and the collective members as provided by  
25  
26

1 the FLSA, they are entitled to an award of prejudgment interest at the applicable legal  
2 rate.

3 **VIII. THIRD CLAIM FOR RELIEF**  
4 **(Individual Claim for Violation of A.R.S. § 23-363)**

5 ~~69. Plaintiff repeats and realleges all previous paragraphs of this Complaint~~  
6 ~~as though fully set forth herein.~~

7 ~~70.92. Plaintiff asserts~~Plaintiffs assert this claim for damages and declaratory  
8 relief pursuant to A.R.S. § 23-363.  
9

10 ~~71.93. At all relevant times, Defendant was Plaintiff's~~Defendants were Plaintiffs'  
11 "employer" within the meaning of A.R.S. § 23-363.

12 ~~72.94. A.R.S. § 23-363 requires employers to pay all employees a lawful~~  
13 minimum wage (\$10.50/hr after January of 2018, \$11/hr after January of 2019 and  
14 \$12/hr after January of 2020).  
15

16 ~~73.95. During some weeks in which Defendant~~Defendants reduced or failed to  
17 pay ~~Plaintiff's~~Plaintiffs' commission, ~~Defendant~~Defendants failed to pay  
18 ~~Plaintiff~~Plaintiffs a sufficient minimum wage.  
19

20 ~~74.96. Defendant's~~Defendants' conduct and practices, as described above, were  
21 willful, intentional, unreasonable, arbitrary, and in bad faith.

22 ~~75.97. By reason of the unlawful acts alleged herein, Defendant is~~Defendants are  
23 liable to ~~Plaintiff~~Plaintiffs for monetary and liquidated damages and costs, including  
24 reasonable attorney's fees provided by the FLSA for all violations which occurred in the  
25  
26



1 three years preceding the filing of Plaintiff's initial complaint, plus periods of equitable  
2 tolling.

3 **IX. FOURTH CLAIM FOR RELIEF**  
4 **(Individual Claim for Violations of A.R.S. § 23-351)**

5 98. Plaintiffs assert this claim for damages and declaratory relief pursuant to  
6 A.R.S. § 23-351.

7 99. At all relevant times, Defendants were Plaintiffs' "employer" within the  
8 meaning of A.R.S. § 23-351.

9 100. A.R.S. § 23-351 requires employers to designate two or more days each  
10 month, but not more than sixteen days apart, as fixed paydays for payment of wages to  
11 employees. The employer is required to pay the employees all wages due to the  
12 employee up to that date, except where the employee remains in the service of the  
13 employer, all wages other than overtime or exception pay not to exceed five days of  
14 labor may be withheld.

15 101. Defendants failed to pay Plaintiffs' wages in a timely manner as described  
16 above, and in some pay periods, Defendants never paid Plaintiffs their wages.

17 102. A.R.S. § 23-355 allows an employee to recover against the employer or  
18 former employer an amount that is treble the amount of unpaid wages where the  
19 employer fails to pay wages due to the employee.

20 103. By reason of the unlawful acts alleged herein, Defendants are liable to  
21 Plaintiffs for monetary and liquidated damages and costs, including reasonable  
22 attorney's fees provided by A.R.S. § 22-351 for all violations which occurred in the three  
23 years preceding the filing of Plaintiff's initial complaint, plus periods of equitable  
24 tolling.

1 years preceding the filing of Plaintiffs' initial complaint, plus periods of equitable  
2 tolling.

3 **IX.X. PRAYER FOR RELIEF**

4 WHEREFORE, premises considered, ~~Plaintiff~~Plaintiffs Tony Manzo, Suzanne  
5 Adams, Brian Kimmerle, Judy Kinsinger, Matthew Lee, Seth Zimmerman, Nicole  
6 Cavasini-Pludowski and Nancy Thias, individually and on behalf of all others similarly  
7 situated, respectfully ~~prays~~pray that each Defendant be summoned to appear and to  
8 answer this Complaint and for declaratory relief and damages as follows:  
9

10 A. A declaratory judgment that ~~Defendant's~~Defendants' practices alleged in  
11 this Amended Complaint violate the FLSA, the Arizona Revised Statutes and their  
12 related regulations;  
13

14 B. Certification of a collective under Section 216 of the FLSA of all  
15 individuals similarly situated, as further defined in any motion for the same;  
16

17 C. Judgment for damages suffered by ~~Plaintiff~~Plaintiffs and others similarly  
18 situated for all unpaid wages under the FLSA, the Arizona Revised Statutes and their  
19 related regulations;  
20

21 D. Judgment for liquidated damages owed to ~~Plaintiff~~Plaintiffs and all others  
22 similarly situated pursuant to the FLSA, the Arizona Revised Statutes and their related  
23 regulations;  
24  
25  
26

1 E. An order directing ~~Defendant~~Defendants to pay ~~Plaintiff~~Plaintiffs and all  
2 others similarly situated interest, a reasonable attorney's fee and all costs connected with  
3 this action; and

4 F. Such other and further relief as this Court may deem just and proper.

5 DATED this ~~5th~~2nd day of ~~May~~August, 2022.

6  
7 Courtney Lowery  
8 Ariz. Bar No. 036888  
9 [courtney@sanfordlawfirm.com](mailto:courtney@sanfordlawfirm.com)

10 **CERTIFICATE OF SERVICE**

11 I hereby certify that on August 2, 2022, I electronically transmitted the attached  
12 document to the Clerk's Office using the CM/ECF system for filing and transmittal of a  
13 Notice of Electronic Filing to the following CM/ECF registrants, and by email and/or  
14 First-Class Mail if non-registrants:

15 David C. Potts, Esq.  
16 JONES, SKELTON & HOCHULI P.L.C.  
17 40 N. Central Avenue, Suite 2700  
18 Phoenix, Arizona 85004  
19 Telephone: (602) 263-1708  
20 Fax: (602) 200-7829  
21 dpotts@jshfirm.com

22 /s/ Courtney Lowery

23 Courtney Lowery